

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EUGENE LEON PRICE,
Plaintiff,

v.

D. NOONE, *et al.*,
Defendants.

Case No. 2:24-cv-2756-JDP (P)

ORDER

Plaintiff brings this action against at least four defendants—that is, at least D. Noone, B. Carpenter, Stark and Villareal—all of whom are named in the caption. ECF No. 24 at 2. Other individuals are named in the body of the complaint, however, and I cannot tell the precise number of defendants plaintiff seeks to sue. Additionally, the nature of plaintiff’s claims, which involve the use of a “low frequency sound” to harass and torture him, are the sort of fanciful claims that courts routinely dismiss. *Id.* at 14. I will give plaintiff one final opportunity to amend before recommending that this action be dismissed.

I. Screening and Pleading Requirements

A federal court must screen a prisoner’s complaint that seeks relief against a governmental entity, officer, or employee. *See* 28 U.S.C. § 1915A(a). The court must identify any cognizable claims and dismiss any portion of the complaint that is frivolous or malicious, fails to state a

1 claim upon which relief may be granted, or seeks monetary relief from a defendant who is
2 immune from such relief. *See* 28 U.S.C. §§ 1915A(b)(1), (2).

3 A complaint must contain a short and plain statement that plaintiff is entitled to relief,
4 Fed. R. Civ. P. 8(a)(2), and provide “enough facts to state a claim to relief that is plausible on its
5 face,” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The plausibility standard does not
6 require detailed allegations, but legal conclusions do not suffice. *See Ashcroft v. Iqbal*, 556 U.S.
7 662, 678 (2009). If the allegations “do not permit the court to infer more than the mere
8 possibility of misconduct,” the complaint states no claim. *Id.* at 679. The complaint need not
9 identify “a precise legal theory.” *Kobold v. Good Samaritan Reg’l Med. Ctr.*, 832 F.3d 1024,
10 1038 (9th Cir. 2016). Instead, what plaintiff must state is a “claim”—a set of “allegations that
11 give rise to an enforceable right to relief.” *Nagrampa v. MailCoups, Inc.*, 469 F.3d 1257, 1264
12 n.2 (9th Cir. 2006) (en banc) (citations omitted).

13 The court must construe a pro se litigant’s complaint liberally. *See Haines v. Kerner*, 404
14 U.S. 519, 520 (1972) (per curiam). The court may dismiss a pro se litigant’s complaint “if it
15 appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which
16 would entitle him to relief.” *Hayes v. Idaho Corr. Ctr.*, 849 F.3d 1204, 1208 (9th Cir. 2017).
17 However, ““a liberal interpretation of a civil rights complaint may not supply essential elements
18 of the claim that were not initially pled.”” *Bruns v. Nat’l Credit Union Admin.*, 122 F.3d 1251,
19 1257 (9th Cir. 1997) (quoting *Ivey v. Bd. of Regents*, 673 F.2d 266, 268 (9th Cir. 1982)).

20 **II. Analysis**

21 Plaintiff’s complaint obliquely references numerous instances of wrongdoing, including
22 low temperatures in his housing unit, occasional withholding of meals, and instances of verbal
23 harassment from named defendants and other prison guards. ECF No. 24 at 14, 19. The focus of
24 his claims, however, is on defendants’ use of a “low frequency sound” that has affected him
25 mentally and physically. *Id.* at 14. He alleges that this sound can cause “massive physical pain”
26 and is so powerful that it sets off alarms in the prison. *Id.* at 15. He claims that unnamed prison
27 staff have also been recording him in conjunction with deployment of the sound. *Id.* These are
28 the sort of fanciful claims that should not proceed past screening. *See Neitzke v. Williams*, 490

1 U.S. 319, 327-28 (1989).

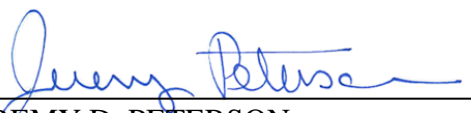
2 I will give plaintiff a final opportunity to amend so that he may better explain the nature
3 of this claim and why this action should proceed. In any amended complaint, plaintiff should be
4 explicit as to how many defendants he seeks to sue and how each allegedly violated his rights.
5 He is advised that the amended complaint will supersede the current one. *See Lacey v. Maricopa*
6 *County*, 693 F. 3d 896, 907 n.1 (9th Cir. 2012) (en banc). The amended complaint should be
7 titled "Third Amended Complaint" and refer to the appropriate case number.

8 Accordingly, it is ORDERED that:

- 9 1. Plaintiff's second amended complaint, ECF No. 24, is DISMISSED with leave to
10 amend.
- 11 2. Within thirty days from service of this order, plaintiff shall file either (1) an amended
12 complaint or (2) notice of voluntary dismissal of this action without prejudice.
- 13 3. Failure to timely file either an amended complaint or notice of voluntary dismissal
14 may result in the imposition of sanctions, including a recommendation that this action be
15 dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(b).
- 16 4. The Clerk of Court shall send plaintiff a complaint form with this order.

17
18 IT IS SO ORDERED.

19 Dated: August 22, 2025

20 
21 JEREMY D. PETERSON
22 UNITED STATES MAGISTRATE JUDGE
23
24
25
26
27
28